

Proposed Local Rule Amendments - 2005

D.N.J. LBR 2016-1 COMPENSATION OF PROFESSIONALS

- (a) The statement of services rendered and itemization of expenses in an application for fees or expenses shall contain:
 - (1) A copy of the order of retention or authorization.
 - (2) The dates of services rendered.
 - (3) The services rendered on each date and the identity of the person rendering the service.
 - (4) The time spent in the rendering of each service. Computer time sheets showing the time units used may be attached to the application.
 - (5) The normal billing rate for each person.
 - (6) At the end of the application, a total of the time spent by each individual performing services.
 - (7) A list of actual, not estimated, expenses.
 - (8) For attorneys and accountants seeking allowance of fees in excess of \$10,000, except as provided in subdivision (g), a summary on **Local Form No. 3 or 4**.
 - (9) A narrative explanation of the nature of the work performed and the results achieved.
- (b) Appraisers shall include in the application the value of the appraised assets.
- (c) An auctioneer shall be allowed those expenses approved by the Court and, in addition, commissions on net proceeds of sale, not to exceed: 10% of the first \$50,000; 7% of the next \$50,000; 5% of the next \$50,000; and 3% of all amounts above \$150,000.
- (d) No Court appearances shall be required on applications by trustees, examiners and professional persons for commissions, fees and expenses, unless an objection is filed and served.
- (e) A copy of each application for allowances shall be served on the United States Trustee at the time of filing.
- (f) A trustee seeking commissions in excess of \$10,000 shall comply with all requirements of subdivision (a) of this Rule, except subdivision (a)(8). A trustee seeking commissions in an amount less than \$10,000 is exempt from the requirements of subdivisions (a)(2), (3), (4), (5), (6) and (8).
- (g) A professional retained on a contingency basis is exempt from the requirements of subdivisions (a)(2), (3), (4), (5), (6) and (8).
- (h) Objections to applications for allowance shall be filed and served no less than 7 days prior to the scheduled hearing date.
- (i) *Chapter 11.* Professionals retained in a Chapter 11 case pursuant to 11 U.S.C. 327 and 1103 seeking post-petition interim compensation and reimbursement of expenses pursuant to 11 USC sections 105(a) and 331 for services rendered and expenses incurred during a Chapter 11 case may file a motion seeking the entry of an administrative order in accordance with the Court's *General Order Adopting Guidelines Governing Procedures for Payment of Interim*

Compensation and Reimbursement of Expenses to Professionals. All applications for allowance of fees and expenses shall be filed within 90 days after entry of a final order confirming a plan, or such fees and expenses shall be deemed to be waived.

- (j) *Chapter 13.* (1) If the fee of the attorney for the debtor disclosed pursuant to Fed. R. Bankr. P. 2016(b) exceeds ~~\$2,000.00~~, \$2,500.00 the attorney for the debtor shall file and serve on the Chapter 13 trustee and the debtor an application for allowances not less than 7 days before the confirmation hearing.

(2) For supplemental fee applications of up to \$1,000.00 per application, for the services listed in D.N.J. **Local Form 13**, the attorney for the debtor may submit **D.N.J. Local Forms 13** and **14**. Such applications shall be served on the Chapter 13 trustee and the debtor.

(3) Any other supplemental applications shall be filed in accordance with section (a) of this rule and shall be served on the Chapter 13 trustee and the debtor. If the supplemental application is for an amount in excess of \$1,000.00, the clerk shall issue notice of hearing as required by Fed. R. Bankr. P. 2002(a)(6) for a date on which chapter 13 cases are heard.

(4) Supplemental fee applications shall be submitted not more than once every 120 days.

(5) A real estate broker or debtor's real estate attorney duly retained pursuant to D.N.J. LBR 2014-1, and whose fees are approved in an order authorizing debtor to sell real property and pay certain professionals' fees upon closing, pursuant to D.N.J. LBR 6004-1(b) is exempt from the requirements of this rule.

1997 Comment: Subparts (a) and (b), and (d) through (h) are former Local Rule 8(a) through (g); subpart (c) is former Local Rule 7(c); subpart (i) is the former Local Rule 25(c); subpart (j) is former Local Rule 33.

2001 Comment: Subpart (j) amended March 8, 2001; amendments include increasing the fee dollar amount from \$1,500.00 to \$2,000.00 and the addition of paragraphs (2), (3) and (4).

2004 Comment: Subsection (i) is amended to add reference to the Court's *General Order Adopting Guidelines Governing Procedures for Payment of Interim Compensation and Reimbursement of Expenses to Professionals* which was implemented on March 31, 2003, and posted to the Court's website, as one of four General Orders comprising the Court's Chapter 11 Initiative. The General Orders and related Guidelines governing Chapter 11 practice in this District are referenced at D.N.J. LBR 3016-1(e).

Subsection (j)(5) is added for Chapter 13 cases, exempting from the requirements of this Local Rule, a real estate broker or debtor's real estate attorney duly retained pursuant to D.N.J. LBR 2014-1 and whose fees are approved in an order authorizing debtor to sell real property and pay certain professional fees at closing, pursuant to D.N.J. LBR 6004-1(b).

2005 Comment: Subpart (j) is amended effective August 1, 2005, to increase the fee dollar amount from

\$2,000.00 to \$2,500.00.

Reference: 11 U.S.C. § 327 Employment of professional persons; 11 U.S.C. § 328 Limitation on compensation of professional persons; 11 U.S.C. § 330 Compensation of officers; 11 U.S.C. § 504 Sharing of compensation; Fed. R. Bankr. P. 2013 Public Record of Compensation Awarded to Trustees, Examiners, and Professionals; Fed. R. Bankr. P. 2014 Employment of Professional Persons; **D.N.J. LBR 2014-1, 2016-1, 6004-1, 6005-1.**